

**CHAPTER Ins 700 REQUIREMENTS FOR FOREIGN INSURANCE  
COMPANIES APPLYING FOR A LICENSE TO DO BUSINESS IN THE STATE  
OF NEW HAMPSHIRE**

Statutory Authority: RSA 400-A:15

**PART Ins 701 CERTIFICATION; FILING REQUIREMENTS; APPLICATION  
FOR LICENSURE**

**Ins 701.01 Scope.**

(a) Ins 701 shall apply to applicants seeking a certificate of authority to do insurance business pursuant to RSA 405 in the state of New Hampshire.

(b) Ins 701 shall not apply to those applicants seeking admission to this state under the provisions of RSA 416, RSA 416-A, RSA 418, RSA 420-A, RSA 420-B and RSA 420-D.

(c) Ins 701 shall not apply to the annual renewal of licenses nor shall it apply to renewals issued pursuant to RSA 402:14-a and RSA 405:14-a.

**Ins 701.02 Preliminary Admission Filing Requirements.**

(a) Prior to the submission of its application for licensure to the insurance department pursuant to Ins 701.03 below, all applicants shall file a preliminary application with the examination division of the insurance department.

(b) The preliminary application shall include:

- (1) Name of company;
- (2) Mailing address;
- (3) Name of contact person for filing;
- (4) Parent corporation/company; and
- (5) Kinds of insurance proposed to be written by applicant.

(c) The applicant shall score the points for Ins 701.02(i) as follows:

- (1) For capitalization including invested capital and surplus:
  - a. If applicant has \$1m to \$5m in capital, the applicant shall receive 1 point;

b. If applicant has \$5m to \$10m in capital, the applicant shall receive 2 points; and

c. If applicant has more than \$10m in capital, the applicant shall receive 3 points.

(2) For insurance Regulatory Information System (IRIS test) results:

a. If the applicant failed 4 or more IRIS tests and/or did not file annual statement with the NAIC last year, the applicant shall receive 1 minus point;

b. If the applicant failed more than 1 but less than 4 tests last year, the applicant shall receive 1 point; and

c. If the applicant filed 1 or no test(s) last year, the applicant shall receive 2 points.

(3) For A.M. Best's Rating:

a. If the rating of applicant, or if applicant is not rated, then rating of applicant's parent or affiliates is A-, the applicant shall receive 1 point;

b. If the rating of applicant, or if applicant is not rated, then rating of applicant's parent or affiliates is A, the applicant shall receive 2 points; and

c. If the rating of applicant or if applicant is not rated, then rating of applicant's parent or affiliates is A+, the applicant shall receive 3 points.

d. If the rating is not that of the applicant, provide the name of the parent or affiliates.

(4) For affiliation with a licensed carrier:

a. If applicant is affiliated with a presently licensed New Hampshire carrier which wrote more than \$100,000 direct premiums in this state for the previous fiscal year, the applicant shall receive 1 point;

b. Name of New Hampshire licensed affiliate.

(5) For contiguous state licensing:

a. If applicant is licensed in one contiguous state to New Hampshire, the applicant shall receive 1 point; or

b. If applicant is licensed in two contiguous states to New Hampshire, the applicant shall receive 2 points.

(6) For the surplus ratio test:

a. Adjusted surplus means the applicant's surplus as reported in the annual statement less the difference between the market value of the applicant's bond and investment portfolio and the amortized value of the applicant's bonds and investment portfolio, less any investment by the applicant in its parent, subsidiaries and affiliates which exceeds 35% of the applicant's surplus;

b. Property and casualty applicant's surplus ratio test equals the net premiums written divided by the adjusted surplus.

1. If applicant's resulting ratio is less than 3:1, the applicant shall receive 1 point;

2. If applicant's resulting ratio is greater than 3:1 but less than 4:1, the applicant shall receive 1 minus point;

3. If applicant's resulting ratio is greater than 4:1, the applicant shall receive 2 minus points.

c. Life, accident and health applicant's surplus ratio test equals the adjusted surplus divided by the aggregate reserves.

1. If applicant's resulting percentage is greater than 10%, the applicant shall receive 1 point;

2. If applicant's resulting percentage is greater than 6% but less than 10%, the applicant shall receive 1 minus point; and

3. If applicant's resulting percentage is less than 6%, the applicant shall receive 2 minus points.

(7) For the loss ratio incurred of all property and casualty applicants:

a. If applicant's loss ratio is less than, 65% plus prime rate on date of application, the applicant shall receive 1 point;

b. If applicant's loss ratio is greater than, 65% plus prime rate but less than 90%, the applicant shall receive no points; and

c. If applicant's loss ratio is greater than 90%, the applicant shall receive 1 minus point; and

d. Indicate the prime rate used.

(8) The total number of points is equal to the points from tests 1 through 7 above.

(d) The commissioner shall, when satisfied the applicant can meet the requirements of RSA 405:12, waive the preliminary filing requirement and permit an applicant company to submit an application without first having made a preliminary application. The commissioner shall consider the results the applicant would have received had it completed a preliminary application, however, the commissioner shall not be bound by such results.

(e) Each applicant shall have been in business for 5 years. This requirement shall not be applied to survivor corporations in the case of merger or consolidations or regarding wholly-owned subsidiary corporations or corporations which have been authorized by this department for more than 5 years immediately preceding an application. The 5 year requirement shall also be waived by order of the commissioner upon the commissioner's satisfaction that such waiver is in the public interest.

(f) Each applicant shall demonstrate an orderly pattern of growth in the company's marketing territories in the geographic region, which shall include being licensed in one or more states contiguous to this state. The commissioner, upon assessment of the rate of growth of the company, its business persistency, supporting surplus resources, business acquisition costs, claims experience and investment policies shall make a determination concerning the adequacy of equity resources as related to the company's business expansion. This adequacy shall include, among other considerations, satisfactory ratio results by the National Association of Insurance Commissioners' Insurance Regulatory Information System. Such determination together with a review of policyholder service arrangements relating to New Hampshire insureds, shall be used to evaluate the company's potential to perform on policy obligations contracted within this state and its expertise in marketing and servicing its product lines.

(g) Each applicant shall show that it writes those lines of business in its domiciliary jurisdiction that it proposes to write in this state in sufficient volume as to demonstrate an expertness in marketing and servicing such product lines. This requirement shall not apply to survivor corporations in the case of mergers or consolidations.

(h) Upon receipt of the preliminary application, the examination division shall review it. Those applicants indicating total points in excess of 8 may file a full application for licensing with the insurance department pursuant to Ins 701.03. Applications scoring less than 8 points shall be returned to the applicant.

(i) The examination division shall notify the applicant if the applicant's preliminary application evidences that the applicant exceeds the minimum points necessary for application. Upon receipt of such notification from the insurance

department, the applicant shall complete and submit to the insurance department a complete application pursuant to Ins 701.03.

(j) The applicant shall submit all fees required by RSA 400-A:29 at the time of the filing of their preliminary application pursuant to Ins 701.02.

(k) Applicants shall not file any application materials pursuant to Ins 701.03 with the insurance department until such time as they have been notified to so file by the insurance department.

(l) The examination division shall request applications from applicants which have successfully completed the preliminary application test. Requests shall be made in such a manner as to ensure the orderly filing of applications and to preclude the division from having more than 75 applications on file at any one time.

**Ins 701.03 Full Application for Licensure.**

(a) All companies seeking to become licensed to transact the kinds of insurance permitted by Title XXXVII of the New Hampshire Revised Statutes Annotated shall submit the NAIC Uniform Certificate of Authority Application which includes:

(1) Capital and domiciliary licensure as follows:

a. The paragraphs of insurance enumerated in RSA 401:1 which it proposes to write;

b. The capital and/or surplus funds it possesses for each paragraph of insurance the applicant proposes to write;

c. A determination of its financial condition using the following criteria:

1. Surplus to policyholders will be adjusted by deducting from unassigned funds of any non-qualifying assets or understatement in reserves or special deposits not held on account for policyholders;

2. The difference between market value when less than amortized value of investment in bonds shall be taken into consideration and also the ratio of earned premiums to surplus as regards policyholders for non-life companies when that ratio exceeds 3:1, as well as any other ratios that are outside acceptable ranges for IRIS or the NAIC;

d. Evidence that the applicant holds a valid certificate of authority or other evidence of licensure from its state of domicile or jurisdiction

which authorizes it to transact those kinds of insurance it proposes to transact in this state;

e. A statement of the ownership of the applicant, including all shareholders of record who control 5% or more of the outstanding shares of the applicant directly or indirectly. If the company is part of a holding company system, information required by RSA 401-B, including a consolidated financial statement;

f. A copy of any agreements by which the right to conduct or influence any of the affairs of the applicant is transferred to others, also any employment or deferred compensation agreements in which any officer, director or shareholder who controls 5% or more of the outstanding shares of the applicant directly or indirectly participates;

g. A copy of the corporate charter or articles of incorporation, providing existence to the applicant with all amendments thereto certified by the public officer with whom the originals are on file in the domiciliary jurisdiction;

h. A certified copy of the by-laws, as amended, the certified copy to be provided by the custodian of the by-laws;

i. Annual statements as filed with the National Association of Insurance Commissioners for the 2 years preceding the current year for the type(s) of insurance proposed to be transacted in this state. They shall include all supporting addenda filings, an expense exhibit and a copy of the stockholder's information supplement, if applicable. All statements, including any updated interim filings, shall be sworn statements and actually signed by the president and secretary of the company. The most recent statement shall be dated no more than 9 months prior to the date of submission of the application;

j. The company's proposed plan of operation in New Hampshire, including:

1. Affiliates already licensed in New Hampshire;
2. Claims handling and servicing facilities for New Hampshire;
3. Proposed claim office location;
4. Recruitment and supervision of agents; and

5. A 3 year forecast of anticipated premiums in this state by line of business;

k. A certificate of compliance signed by the appropriate domiciliary state official and setting forth the lines of business the company is authorized to write in its home state;

l. If a license has been refused, suspended or revoked by any jurisdiction, an explanation and a copy of any such action;

m. Independent Audit Reports:

1. If the applicant has appointed independent outside accountants, file certified audited financial reports for the 2 complete fiscal years immediately preceding the date of application;

2. If not contained in these reports, a reconciliation prepared by the independent accountant shall be furnished which details adjustments from original basis of presentation to statutory form;

3. Any comments or management letters prepared by the outside accountant, as well as recommendations relative to adequacy of internal controls or a signed statement by the independent accountant that no recommendations have been rendered to management shall be included;

n. A list of the states in which the applicant is not licensed but has an application pending;

o. Evidence of the appointment by the applicant of a resident agent;

p. Biographical Data:

1. Officers and directors information pursuant to NAIC annual statement instructions respecting all natural persons owning 5% of the applicant, directors and the president, vice-president(s), secretary, treasurer, chief actuary, general counsel, comptroller and any person, however described, who enjoys in fact the executive authority of a corporate officer;

2. A statement that each officer, director or 5 percent shareholder has not been convicted of a felony, not annulled by a court; or

3. If such person has been so convicted, a description of the nature of the crime and the address of the court and docket number of the case when judgment was entered;

q. A written analysis of the applicant's reinsurance program by type of reinsurance proposed or actual reinsurance in force;

r. A certificate of the applicant's statutory deposits from its domiciliary jurisdiction provided such domiciliary jurisdiction requires such a filing of a New Hampshire domiciliary;

s. Copies of all annual, quarterly or other reports, and proxy statements made by the applicant and its parent to stockholders and policyholders during the most recent 3 year period;

t. Any prospectus of the company or its parent within the 3 years preceding;

u. Tender offer material, if any tender offer has been made by the company or its parent to acquire another company within the 3 years preceding;

v. A copy of the most recent form 10-K for the 2 years preceding if the applicant, its parents, or any of its affiliates are regulated by the Securities and Exchange Commission;

w. A copy of the holding company registration statement as amended as filed with the insurance supervisory official in the jurisdiction where the company is registered for the current year and the 2 years preceding;

x. Certified copies of the last 2 reports of examination conducted by the company's domiciliary jurisdiction preceding the filing of its preliminary application and copies of any other reports prepared by any jurisdiction during this period; and

y. Administrative office not located in domiciliary state:

1. Applicants licensed in a jurisdiction and operated from an administrative office therein but domiciled in another jurisdiction shall explain the nature of such arrangement;

2. Such explanation shall demonstrate that regulatory influence of the domiciliary supervisory official has not been diminished as a result thereof;



3. It shall also demonstrate that such arrangement shall not be disadvantageous to policyholders and claimants resident of this state; and

(2) The following additional information which is not contained in the NAIC Uniform Certificate of Authority Application:

a. A certified copy of a resolution of the company's board of directors which authorizes the filing of an application for a license in this state;

b. An appointment of the insurance commissioner as attorney to receive service of process accompanied by a certified copy of the resolution of its board of directors authorizing such appointment;

c. Specimens of the policies that the company proposes to use in New Hampshire;

d. Rates:

1. The rates on an advisory basis which the company proposes to use if authorized to transact business in New Hampshire;

2. If the company is a member of, or subscriber to any rating organizations, furnish a letter for each such organization authorizing this department to accept the organization's filings on behalf of the company;

e. A copy of any annual statements of any parent or subsidiary insurer(s) not currently licensed here for the year prior to submission date;

f. A certificate of valuation of policies in force as of December 31st preceding certified to by the supervisory official of the domiciliary jurisdiction, if a life insurance company;

g. A certified copy of the deed of trust filed with the jurisdiction of entry to the United States, if an alien company;

h. A certificate of trustee surplus from the domiciliary state in the United States if an alien company;

(b) The following procedures and requirements shall apply to the application process:

(1) Applicants shall keep application current;

- (2) Any amendments to constituent documents on file shall be timely filed;
- (3) Applications shall be accepted between March 1 and October 1 of each year;
- (4) Review of prior years filings may be expected to start by March 1 of each year, after receipt of annual statements due March 1 of each year;
- (5) The examination division shall make such arrangements as are necessary to ensure the orderly review of applications;
- (6) The division shall sequentially number applicants or shall make such other arrangements such as groupings to comply with this requirement; and
- (7) Any applicant whose application is rejected as a result of review who reapplies shall be assigned a new sequential ordering respecting its application as provided above.
- (c) Any applicant whose application is rejected may request a hearing in accordance with the provisions of RSA 541-A and Ins 200 and shall be so notified.

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